IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

W.P.L.NO.1081 OF 2006

Hussain Kadar Rajapurkar ..Petitioner

Vs.

State of Mah. & 2 Ors. ..Respondents

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Mr.S.G.Surana i/b Divya Shah and Co. for Petitioner
Mr.P.G.Sawant AGP for Respondent Nos.1 to 3
Mr.A.Y.Sakhare, Senior Advocate with Mr.N.G. Raut Adv. for Respnodent Nos. 4 and 5
Mr.G.D.Utangale Adv.for Respondent No.7

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CORAM: F.I.REBELLO AND
SMT.V.K.TAHILRAMANI,JJ.
DATE : JULY 19, 2006

P.C.

1. After hearing the counsel for the parties and perusing the affidavit now filed, what emerges on record is the right claimed by the petitioner is on CTS No.86/P/14 in respect of which a slum declaration was issued for an area of 4515 sq.mts. Once that be the case, we are not concerned with the corrigendum at least in this petition filed by the petitioner. The case of the petitioner is that 500 sq.yards in

that CTS were allotted to the predecesors-in-title of the petitioner on 28.12.1924 for a period of 10 years. That period was not extended and on the contrary, in July 1944 the land was allotted to the society. The predecesors-in-title of the petitioner became member of the society. The allotment in favour of society was not challenged by the predecessors-in-title of the petitioner.

2. The petitioner and one other legal heir of the original petitioners, are the only ones who are opposing the SRA Scheme. Other legal representatives have agreed to the SRA Scheme.

3. The question is whether in these circumstances, even assuming that the Appellate Tribunal, did not address itself to some of the aspects, argued before this Court, should this Court exercise its extra ordinary jurisdiction. In our opinion, once the period of lease had expired and the land was allotted to the society which was not challenged by the predecessor-in-title and that he became a member of the society, the petitioner would have no right to challenge it on the ground that his legal rights have been infringed. Whatever rights the petitioner would

have, would be the rights what her predecessor-in-title would have as member of the society.

4. Considering the above, in our opinion, no case is made out for interference with the impugned order. Hence, petition is rejected.

[F.I.REBELLO, J.]

[SMT.V.K.TAHILRAMANI,J.]